

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

PUBLIC SERVICES – Treasuries and Accounts Department - Departmental Proceedings against Sri.B.Narayana, STO (Retired) O/o the DTO, Medak at Sangareddy – Imposition of a punishment of withholding 25% of Pension permanently under Rule 9 of A.P. Revised Pension Rules, 1980 – Orders - Issued.

FINANCE (ADMN.I.VIG) DEPARTMENT

G.O.Rt.No. 340

Dated.01.02.2010.

Read the following:-

1. Lr.No. K4/10592/99, dated.13-02-2003 of DTA, AP, Hyderabad.
2. G.O.Ms.No.187, Finance (Admn.I.Vig) Department, dt.7-3-2003.
3. G.O.Rt.No.538, Finance (Admn.I.Vig) Department, dt.7-3-2003.
4. Defence Statement of Sri B.Narayana, STO (Retd.) dated 5.5.2003.
5. DTA Lr.No.K4/10592/2000, dated 13-12-2003 along with E.O. report dt.29-11-2003.
6. Govt. Memo.No.4679/9/Admn.I/A2/2003, dated.25-06-2005.
7. DTA Lr.No. K4/10592/2000, dated 25-08-2005 along with Explanation of Sri B.Narayana, STO (Retd.) dt.06-08-2005.
8. APAT interim orders dated 13-09-2005 in O.A.No.5275 and 5282 of 2005 filed by Sri B.Narayana, STO (Retd.) and Sri B.Narayana, Accounts Officer (Retd.).
9. APAT final orders dated 9-10-2009 in O.A.No.5275 and 5282 of 2005 filed by Sri B.Narayana, STO (Retd.) and Sri B.Narayana, Accounts Officer (Retd.).
10. Govt. Letter No. 4679/9/Admn.I/A2/2003, dated 16-11-2009 addressed to the Secretary, A.P. Public Service Commission.
11. Secretary, APPSC Lr.No.1408/RT-I/3/2009, dated 02-01-2010.

ORDER:

The Director of Treasuries and Accounts, in the reference 1st read above has reported that the Inspector of Police, CID, City Zone, Hyderabad has requested the Deputy Director, District Treasury, Medak at Sangareddy to furnish the bills inward and outward Registers of the ATO for the period between 1995 to 1997, in connection with the investigation, to dig out the racket of the misappropriation of Government money in the O/o the District Registrar, Sangareddy. The Deputy Director, District Treasury could not furnish the desired records to the police authorities, as per requisition, due to non availability of the records in the Record Room and destruction of records on account of Clean and Green programme. The police authorities have informed the matter to the DTA and requested to take necessary action against the persons responsible for misplacement of records. A report in the matter was called for from the Deputy Director, District Treasury, Medak. The Deputy Director, D.T., Medak has reported that the concerned clerks have stated that the records were handed over to Sri.B.Narayana, the then Sub Treasury Officer (Administration) and Sri.B.Narayana, the then Assistant Treasury Officer (Administration) who were dealing the case at that time. Explanations have been called for from the above individuals and they were requested to trace out the records. The individuals in their explanations have submitted that inspite of their vigilant search the records were not traceable. Hence, the Deputy Director has fixed the responsibility for misplacement of the records on Sri.B.Narayana, STO (Retired) and Sri.B.Narayana, the then ATO as per the records available. Since, the both the officers retired from service on attaining the age of superannuation, the DTA has forwarded their cases along with relevant material to initiate Departmental proceedings against them under Rule 9 of A.P. Revised Pension Rules, 1980.

2. Government, after careful consideration of the matter, decided to initiate Departmental proceedings against Sri B.Narayana, Accounts Officer (Retd.), O/o Director of Women & Child Welfare, AP, Hyderabad and Sri B.Narayana STO (Retd.) vide G.O.2nd read above.

3. The following Articles of Charge was framed against Sri B.Narayana, Sub Treasury Officer (Retd.) vide G.O.3rd read above.

It was alleged that while he was working as Sub Treasury Officer at District Treasury, Medak at Sangareddy was involved in misplacement of the records which were sought Inspector of Police, C.I.D, City Zone, Hyderabad in connection with investigation of misappropriation of Government money in the O/o the District Registrar, Sangareddy and failed to keep the records under his personal custody with malafide intention to save the culprits involved in the case.

4. Smt.M.Anuradha, Dy. Director, O/o District Treasury Office, Nizamabad was appointed as the Enquiry Officer to inquire into the Charges framed against both the Charged Officers Sri B.Narayana, form ATO, District Treasury, Medak at Sangareddy, now Accounts Officer (Retd.) and Sri B.Narayana, STO (Retd.).

5. Smt.M.Anuradha, Inquiry Officer and Dy. Director, O/o District Treasury Office, Nizamabad who was appointed as the Enquiry Officer has inquired into the Charges framed against both the Charged Officers Sri B.Narayana, form ATO, District Treasury, Medak at Sangareddy, now Accounts Officer (Retd.) and Sri B.Narayana, STO (Retd.). and submitted her report vide reference 5th read above.

6. In the enquiry, the charges framed against Sri B.Narayana, form ATO, District Treasury, Medak at Sangareddy, now Accounts Officer (Retd.) and Sri B.Narayana, STO (Retd.) were proved substantially. The following are the findings Enquiry Officer:

“After going through the ingredients o the charge framed against both the Delinquents/Charged Officers I have also gone through the oral evidence adduced by both the parties apart from documentary evidence produced before in relation to the Charge. The GW1-Mr.M.Narasimlu, Junior Accountant, O/o DTO, Sangareddy has categorically deposed that the Bills Out-ward Register of Stamps and Registration has been handed over to B.Narayana the then A.T.O. and B.Narayana, the then STO at their request and the said register had not been returned to him inspite of his request. The GW2 – Mr. J.Chandrasekhar, Junior Accountant, O/o the DTO, Sangareddy also deposed that during Half-yearly inspection of September, 1997 the then ATO called him and directed him to keep the records with him. Even after completion of the inspection the subject records were not returned and told that he will keep the records and the same was endorsed by the then STO-B.Narayana who was present at the chambers of the ATO by that time. The GWS. 1 and 2 submitted their respective written explanations to the memos given to them by the Deputy Director, District Treasury, Sangareddy. Those two statements were marked as Ex.A7 and Ex.A8 which are also categorically establishes that the Bills Out-ward Register for the year 1996-97 and Bills Token Register from 1994 to 31-03-1997 were handed over to the Delinquents herein. After entrustment of the subject records to the charged officers, the same could not be traced for the purpose of investigation so far as desired by the Police. The main limb of the charge against Sri B.Narayana AO (Retd.) is “misplacement of subject records and failed to keep the records under his personal custody after the fraud came into surface” The charge against B.Narayana STO (Retd.) is “responsible for misplacement of the records and he

himself has misplaced/destroyed records with a malafide intention. Moreover, as per charge both the charged officers were in-charge of administration during that time and that has not been denied at any point of time during the enquiry. The documents filed on the Government side especially Ex.A4 and letter dated 7-6-2000 enclosed with Ex.A5 categorically stated that the charged officers were looking after the Administration of District Treasury, Sangareddy. Moreover, as per the records filed on the Government side, one of the charged officers Sri B.Narayana, A.O. (Retd.) was In-charge of District Treasury Officer for quite some time when the fraud of mis-appropriation was un-earthed. The other charged officer B.Narayana, STO (Retd) was in-charge of administration. The documentary evidence coupled with oral evidence, the Government established that subject records i.e. the bill out wards register of stamps and registration for the year 1996-97 and bills token register has been handed over to them and those were misplaced and could not be traced. Thus, the misplacement/destruction of the same was happened when both the charged officers were at held of affairs.

During the course of cross examination of Government Witnesses on behalf of the Charged officers/Delinquents, they could not elicit any contradictory evidence/statements from M.Narsimulu (GW1) and J.Chandrasekhar (GW2) to disprove the charge of entrustment of subject records to the charged officers except a mere suggestion that "because the ATO was transferred out you are throwing the blare on him". In the absence of the any contradictory statements from the direct witnesses who categorically deposed that they only entrusted/handed over the subject records to the Delinquents, the charge leveled against the Delinquents cannot be disproved. The contention of Charged Officers is that record either should be with the custody of the Record Keeper or with the Head of the Office. The said stand has not been supported with any documentary or oral evidence on their behalf. As a matter of fact the both the Delinquents did not deny there the fact of their being in-charge of administration at that time. When the Charged Officers were in-charge for administration they are the responsible persons to look after their Office records. In the entire evidence, the Charged Officers have not disputed their Official position during the said period. Thus, the said allegation has no less to stand.

The other contentions of the Delinquents that they are not the Head of the Office and they never asked the records to be kept with them and denied the statements made by GWs. 1 and 2. During the course of evidence the GWs. 1 and 2 categorically stated that as the Delinquents were their superior Officers at that time they did not question nor insisted either for handing over of the subject records or return of the same to the concerned section. In the administrative parlance the statements/depositions uttered by GWs. 1 and 2 are true and genuine. The other contention of the Charged Officers is that some of the witnesses i.e. GWs. 3 to 8 deposed during their cross examination that they have not witnessed the handing over of the subject records to the Charged Officers. In fact these witnesses in their statements only deposed that they were told about this handing over by GWs. 1 and 2. Since the Government witnesses GWs. 3 to 8 were not directly involved in handing over of records, their admission of not witnessing the entrustment/handing over of the records is of no help to the delinquents.

One of the Charged Officers Sri B.Narayana, A.O. (Retd.) along with his statement of defence submitted Ex.D1 to 3 copies in support of his defence. Ex.D1 is the proceedings of Regional Joint Director, Treasuries and Accounts, A.P., Hyderabad who dropped the charge of misappropriation framed against him. The

finding recorded in the said proceedings has no relevance in his charge as this charge is pertaining to handing over or entrustment of subject records and misplacement/destruction of the same. Therefore, the Ex.D1 is of no help to defend his case. Similarly, Ex.D2 and D3 are also has no relevance in this case, as the specific allegation entrustment/handing over of records is at a particular juncture and there is no possibility of reflecting those handing over of the records in the charge list under Ex.D3. The other contention of the Delinquents is that due to inimical terms some staff gave false statements against them. In fact during the course of enquiry except GWs. 1 and 2 who are directly involved in handing over of the subject records none others deposed adversely against the Delinquents, if the theory of enmity is to be believed, the remaining witnesses from Government side would say adversely against the Charged Officers. The said contention has no merits in disproving the charge. The other contention of the delinquents, that the records requisitioned by the Police has no evidentiary value and are of less importance is not proper. The Delinquents are not the proper persons to decide whether a particular record is useful or helpful in prosecuting the case of misappropriation. The Police is appropriate authority and accordingly they asked for the records and it is the duty of the Department to send those records for investigation.

As the Government categorically establishes the charge with regards to the entrustment/handing over of the subject records to the Charged Officers and their failure in turn failed to keep the records under their personal custody after the fraud came to notice. Being in-charge Head of Office, as well as Head of the Administration, both the delinquents failed to safeguard the records and hence, responsible for misplacement or destruction of records with a malafide intention to save the culprits involved in the case.

By summoning of all my findings on several aspects into the charge I firmly conclude that the entire charge framed against the charged officers have been proved by the Government by adducing voluminous documentary evidence and by substantial oral evidence coupled with non-denial of certain crucial aspects by the Delinquents. In these circumstances the oral evidence adduced by the Government coupled with the documentary evidence proved the contents of charge. I have not come across with any contra evidence to come to a different conclusion except agreeing with the contentions of the Government with regard to the charges on the both the Delinquents. Accordingly I record my finding that the contents of the charge framed against the delinquents are proved beyond doubt.

Thus the charges framed by the Government against the Charged Officers are found proved. I am herewith returning all the Documents and Depositions to the Government of Andhra Pradesh, Finance Department along with this enquiry report.”

7. Government, after careful examination of the report of the Enquiry Officer and the charge framed against the individual and explanation of the charged officer, have observed that the Inquiring Authority has given enough opportunity to the Charged Officers prove their innocence. During the Inquiry, both the delinquents were totally failed to prove their innocence of the charges leveled against them. The documentary evidence as well as oral evidence of witnesses clearly showing that the delinquents were responsible for misplacement and destruction of crucial records relating to the case of fraudulent drawal of Government money to a tune of Rs.7, 33,746/- in the Office of the District Registrar, Sangareddy by way of inflating pay bills and failed to produce the records as sought by the CB CID authorities for investigation. Therefore, the Government comes to a provisional conclusion that the charge framed against Sri B.Narayana, Sub

Treasury Officer (Retd.) stands substantially proved. He was issued a final show cause notice vide reference 6th read above with a direction to explain as to why a punishment of withholding of 25% of pension permanently should not be imposed on him under Rule 9 of A.P. Revised Pension Rules, 1980 for the charge, which has been conclusively proved in the enquiry before the enquiry officer.

8. Aggrieved by the Government Memo. Sri B.Narayana, Sub-Treasury Officer (Retd.) has filed an O.A.No.5275/2005 before Hon'ble A.P. Administrative Tribunal. The Hon'ble APAT in their interim orders dated 13-09-2005 in O.A.No.5275/2005 and 5282/2005 filed by Sri B.Narayana, STO (Retd.) and Sri B.Narayana, Accounts Officer (Retd.) respectively observed that **"It is the case of applicants that then they retired from service on 31-07-1999 and 31-1-2003 respectively, no charges were pending against them nor were under suspension. The Charges were framed pursuant to issuance of G.O.187, Finance, dt.7.3.2003 and it is the specific allegation of the applicants that the charges (annexure-I) and (annexure-II) refer to the incidents that occurred in 1995, 1996 and 1997. Therefore, the charges framed and the charge memo is in violation of Rule 9 of the A.P. Revised Pension Rules, 1980. Prima facie, it looks to be true. Therefore to protect the interest of the applicants, there shall be an interim direction to the Respondents not to proceed any further pursuant to the disciplinary proceedings issued vide G.O.187 dt.7-3-2003 and the consequential memo issued by the 1st Respondent in Memo.No.4679/9/Admn.I/A2/2003, dt.25-6-2005, pending further orders."**

9. The Hon'ble A.P.A.T. in its final order dated 9-10-2009, while dismissing the O.A.No.5275/2005 and 5282/2005 filed by Sri B.Narayana, STO (Retd.) and Sri B.Narayana, Accounts Officer (Retd.) respectively, observed that *Departmental enquiry was initiated against the applicant by appointing an enquiry officer was initiated against the applicant by appointing an enquiry officer and the enquiry officer submitted report after conclusion of the enquiry finding the applicant guilty of the charges and 1st Respondent issued final show cause notice, dated 25-6-2005 directing the applicant to explain as to why punishment of withholding of 25% pension permanently should not be imposed against him under Rule 9 of A.P. Revised Pension Rules, 1980 for the charge which has been held proved in the enquiry before the enquiry officer. The applicant assailed Charge Memo. Dated 7-3-2003 and the final show cause notice, dated 25-06-2005 as illegal and arbitrary. Charge Memo was issued on 7-3-2003. In pursuance of the charge memo. Enquiry was conducted and the applicant participated in the enquiry. Therefore, the question of the applicant challenging the legality of the Charge Memo at this stage does not arise.*

10. **The learned counsel for the applicants relied following Judgments regarding the period of limitation:**

In C.Kishan Rao Vs Secretary to Government, Panchayat Raj and Rural Development Department, 2003 (6) ALD 346 and A.P. Public Service Commission Vs. B.Sambireddy 2008 (5) ALD 102.

The Hon'ble APAT observed that *"the decisions referred above are not applicable to the facts of the present case. In the present case, the applicant retired from service on 31-7-1999. Consequent on his retirement, the applicant should have returned back the records to the concerned Accountant or to his successor, but he did not do so. Therefore, charge memo was issued on 7-3-2003. In the present case, keeping the records with the applicant is a continuous cause of action. Therefore, the charge memo is within four years from the date of the incident as it came to light when the CBCID authorities requested to deliver certain records for the purpose of enquiry regarding misappropriation of alleged to be caused by the applicant and others.*

In the light of the above circumstances, the charge memo is not barred by limitation. When the charge memo is not time barred by limitation, the final show cause notice, dated 25-6-2005 is also not vitiated and it is in accordance with law. I do

not find any grounds to set aside the charge memo as well as the final show cause notice in both the matters. Hence, both the O.As. are dismissed. VMAs. are allowed and Interim Orders are vacated. The Respondents are at liberty to pass appropriate orders on the basis of final show cause notice after perusing the explanation, if any given by the applicant.”

11. Accordingly, Government, after careful examination of the explanation of the Charged Officer, with reference to the findings of the Enquiry Officer observed that the documentary evidence as well as oral evidence of witnesses Sri M.Narsimhulu, Junior Accountant, Sri J.Chandrasekhar, Junior Accountant, Sri Thukaram, Junior Accountant, Sri K.Kamalakar Reddy, Junior Accountant and Sri Eshwar, Junior Accountant clearly showing that the Charged Officer was responsible for misplacement and destruction of crucial records relating to the case of fraudulent drawal of Government money to a tune of Rs.7, 33,746/- in the Office of the District Registrar, Sangareddy by way of inflating pay bills and failed to produce the records as sought by the CB CID authorities for investigation. The Charge is proved against him substantially in the inquiry. Therefore, Government came to a provisional conclusion for imposition of a punishment of withholding of 25% pension permanently on the Charged Officer Sri B.Narayana, Sub-Treasury Officer (Retd.) under Rule 9 of A.P. Revised Pension Rules, 1980 and referred the matter to the Andhra Pradesh Public Service Commission, Hyderabad for their concurrence vide letter 10th read above.

12. The Andhra Pradesh Public Service Commission, Hyderabad in their letter 17th read above, have concurred with the proposal of the Government for imposition of a punishment of withholding of 25% pension permanently on the Charged Officer Sri B.Narayana, Sub Treasury Officer (Retd.) under Rule 9 of A.P. Revised Pension Rules, 1980.

13. Government, accordingly, hereby order for imposition of a punishment of withholding of 25% pension permanently on the Charged Officer Sri B.Narayana, Sub-Treasury Officer (Retd.) under Rule 9 of A.P. Revised Pension Rules, 1980.

14. The Director of Treasuries and Accounts, Hyderabad shall take necessary further action in the matter accordingly.

15. The G.O. is available on Internet and can be accessed at the address <http://www.goir.ap.gov.in>.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**L.V.SUBRAHMANYAM
PRINCIPAL SECRETARY TO GOVERNMENT (FP)**

To

The individual through the Director of Treasuries & Accounts, A.P., Hyderabad.

The Director of Treasuries and Accounts, A.P., Hyderabad.

Copy to:

The Accountant General, A.P., Hyderabad.

The Secretary, A.P. Vigilance Commission, Secretariat, Hyderabad.

The Secretary, Andhra Pradesh Public Service Commission, A.P., Hyderabad

SF/SC

:: FORWARDED BY ORDER::

SECTION OFFICER